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APPLICATION NO	·L	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/087,929		03/01/2002	Clarence N. Ahlem	202.8	7989
26551	7590	03/23/2004		EXAMINER	
HOLLIS-I 4435 EAST		PHARMACEUTICA MALI	SPEAR, JAMES M		
SUITE 400	1			ART UNIT	PAPER NUMBER
SAN DIEG	SAN DIEGO, CA 92121			1615	
				DATE MAILED: 03/23/2004	

Please find below and/or attached an Office communication concerning this application or proceeding.

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		Application No.	Applicant(s)				
	Office Author O	10/087,929	AHLEM ET AL.				
	Office Action Summary	Examiner	Art Unit				
		James M Spear	1615				
The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply							
THE - Exte after - If the - If NC - Failu Any	IORTENED STATUTORY PERIOD FOR REP MAILING DATE OF THIS COMMUNICATION insions of time may be available under the provisions of 37 CFR 10 SIX (6) MONTHS from the mailing date of this communication. It is period for reply specified above is less than thirty (30) days, a report of the provision of the provisions of the provision	I.  1.136(a). In no event, however, may a reply be timely within the statutory minimum of thirty (30) days d will apply and will expire SIX (6) MONTHS from the cause the application to become ABANDONF.	nely filed s will be considered timely. the mailing date of this communication. D (35 U.S.C. 8 133)				
Status							
1)	Responsive to communication(s) filed on 17	November 2003.					
		is action is non-final.					
3)[	Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.						
Dispositi	ion of Claims						
5)□ 6)⊠ 7)□	Claim(s) 1-15 and 46-53 is/are pending in the 4a) Of the above claim(s) is/are withdra Claim(s) is/are allowed.  Claim(s) 1-15 and 46-53 is/are rejected.  Claim(s) is/are objected to.  Claim(s) are subject to restriction and/	awn from consideration.					
Applicati	on Papers						
9)[	The specification is objected to by the Examin	er.					
10)[	10)☐ The drawing(s) filed on is/are: a)☐ accepted or b)☐ objected to by the Examiner.						
	Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).						
	Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.						
	inder 35 U.S.C. § 119	examiner. Note the attached Office i	Action of format 10-132.				
12)[/ a)[	Acknowledgment is made of a claim for foreign All b) Some * c) None of:  1. Certified copies of the priority document 2. Certified copies of the priority document 3. Copies of the certified copies of the priority document application from the International Bureate the attached detailed Office action for a list	nts have been received.  Its have been received in Application  Drity documents have been received  But (PCT Rule 17.2(a)).	on No d in this National Stage				
Attachment	(s)						
1) 🔲 Notice	e of References Cited (PTO-892)	4) 🔲 Interview Summary (I					
3) 🔲 Inform	e of Draftsperson's Patent Drawing Review (PTO-948) nation Disclosure Statement(s) (PTO-1449 or PTO/SB/08 No(s)/Mail Date	Paper No(s)/Mail Dat ) 5) Notice of Informal Pa 6) Other:					

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1. Applicant's election of claims 1-15 and 46-53 in Paper filed November 17, 2003 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

- 2. The following is a quotation of the first paragraph of 35 U.S.C. 112:
  - The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.
- 3. Claims 1-15 and 46-53 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The factors to be considered in determining whether a disclosure meets the enablement requirement of 35 U.S.C. 112, first paragraph, have been described in *In re Wans, 8 USPQ2d 1400 (Fed.Cir.1988). See MPEP2164.01(a).* The claims in referring to substituted groups in the absence of the particular substituents are not commensurate in scope with an enabling disclosure. The particular substituents are considered critical or essential to the practice of the invention. When the Wans factors are weighed, it is the examiner's position that the disclosure fails to meet the enablement requirement. One skilled in the art could not practice the invention without undue experimentation.
- 4. Claims 1-15 and 46-53 are rejected.

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5. Claims 16-45 are withdrawn from consideration as being drawn to a non-elected invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James M Spear whose telephone number is 571 272 0605. The examiner can normally be reached on Monday thru Friday from 6:30 AM to 3 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman K Page, can be reached on 571 272 0602. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

James M Spear Primary Examiner Art Unit 1615

March 22, 2004